

## REMARKS

Favorable reconsideration of this application is respectfully requested in view of the previous amendments and the following remarks.

At the outset, Applicants respectfully request withdrawal of the finality of the September 10, 2009 Office Action for the following reasons.

In response to the April 6, 2009 final Office Action, Applicants submitted claim amendments with a response on July 6, 2009. Subsequently, as set forth in the July 16, 2009 Advisory Action, entry of those claim amendments was refused based on the belief that those claim amendments presented new issues and might present a concern about new matter. Though Applicants do not share the Examiner's view about new matter, to advance prosecution and avoid raising unnecessary issues, Applicants reworded the previously amended claims and submitted those reworded claims with the August 5, 2009 Request for Continued Examination. The most recent Office Action is a final Office Action responding to the Request for Continued Examination.

§ 706.07(b) of the Manual of Patent Examining Procedure states that it would not be proper to make final a first Office Action where that application contains material which was presented after a final rejection but was refused entry based on the belief that new issues are presented. While the claim amendments which were refused entry in the July 16, 2009 Advisory Action are not identical to the claim amendments presented with the Request for Continued Examination, it is evident from the treatment of the earlier claim amendments that the claim amendments presented with the Request for Continued Examination would likely have been refused entry had they not been filed with the Request for Continued Examination.

For this reason, Applicants submitted the claim amendments with a Request for Continued Examination in the spirit of compact prosecution, rather than waiting to receive an Advisory Action. The claim amendments were also reworded as discussed above in the spirit of compact prosecution to avoid raising unnecessary issues.

Unfortunately, Applicant has been penalized with a first action Final Rejection for taking the above steps in the spirit of compact prosecution. Applicants respectfully submit that this first action Final Official Action is in violation of the spirit, if not the letter, of patent office rules and procedures. Applicants therefore respectfully request withdrawal of the finality of the most recent Official Action.

Claim 1 is rejected based on the disclosure in Japanese Application Publication No. 2001-165390, hereinafter the Japanese Publication.

The test paper recited in Claim 1 includes a first layer made of large-sized pore portions whose section density is 40% or less, with a surface of the first layer being a smooth surface having apertures thereat, and a second layer made of small-sized pore portions whose section density exceeds 40%, with a surface of the second layer having apertures thereat. Additionally, as recited in amended Claim 1, the first layer and the second layer together constitute a single membrane portion formed by a single casting operation. An exemplary method of making a test paper having a first and second layer which together constitute a single membrane portion formed by a single casting operation is disclosed on pages 21 through 27 of the specification.

The translated Japanese Publication discloses a test paper formed by two porous membranes which are stacked one over the other and then bonded. The

Official Action equates the two porous membranes to the recited first and second layers. However, it is quite clear that a test paper formed by two porous membranes which are stacked one over the other and then bonded does not correspond to a test paper having a first and second layer which together constitute a single membrane portion formed by a single casting operation as recited in amended Claim 1.

Claim 1 is therefore allowable over the disclosure in the Japanese Publication, and withdrawal of the rejection of Claim 1 is respectfully requested.

Claim 6, the other independent claim, is also rejected based on the disclosure in the Japanese Publication.

The porous membrane recited in Claim 6 includes a first layer made of large-sized pore portions whose section density is 40% or less, with a surface of the first layer being a smooth surface having apertures thereat, and a second layer made of small-sized pore portions whose section density exceeds 40%, with a surface of the second layer having apertures thereat. Additionally, as recited in amended Claim 6, the first layer and the second layer together constitute a single membrane portion formed by a single casting operation.

Applicants respectfully submit that Claim 6 is allowable over the Japanese Publication for reasons consistent with the above discussion of Claim 1. Withdrawal of the rejection of Claim 6 is therefore also respectfully requested.

The dependent claims are allowable at least by virtue of their dependence from allowable independent claims. Thus, a detailed discussion of the additional distinguishing features recited in the dependent claims is not set forth at this time.

Early and favorable action with respect to this application is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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